



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2010

Mr. Dennis J. Eichelbaum
Schwartz & Eichelbaum, Wardell, Mehl & Hansen, P.C.
5300 Democracy Drive, Suite 200
Plano, Texas 75024

OR2010-10367

Dear Mr. Eichelbaum:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 386328.

The Hillsboro Independent School District (the "district"), which you represent, received a request for copies of the blueprints and plans for Hillsboro High School (the "high school"). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also claim release of the submitted information may implicate the proprietary interests of Huckabee & Associates, Inc. ("Huckabee"). Accordingly, you notified Huckabee of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have considered the exception you claim and reviewed the submitted representative sample of information.¹

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. As part of the Texas Homeland Security Act, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. Section 418.181 provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181. The fact that information may relate to a governmental body's security measures does not make the information *per se* confidential under the Homeland Security Act. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You contend the submitted blueprints are confidential under section 418.181 of the Government Code. You state the blueprints "expose the structural composition of the . . . district's critical infrastructure." We agree the high school is critical infrastructure. *See id.* § 421.001 (defining "critical infrastructure" to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). You further state the submitted information details the high school's vulnerabilities and would be beneficial to a terrorist in a possible attack. In support of this argument, you assert "with a copy of these blueprints, a terrorist could . . . shut off power, disable HVAC systems to insert biological agents, or position an explosive device at a critical structural juncture to cause maximum death and destruction." Further, you state "with these plans[,] a terrorist . . . would know . . . exactly where to hide weapons or ammunition, how best to position oneself for clear shots, and what entrance/exit routes would be least likely to rouse suspicion." After reviewing your arguments and the information at issue, we conclude the district has adequately explained how the submitted information falls within the scope of section 418.181 of the Government Code. Therefore, the district must withhold the submitted blueprints from disclosure under section 552.101 of the Government Code. As our ruling is dispositive, we do not address your remaining arguments against disclosure of the submitted information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 386328

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)